



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

September 16, 2004

Mr. James J. Galvin, Jr, AICP  
Planning Director, City of Dover  
15 E. Loockerman Street  
Dover, DE 19901

RE: PLUS review – PLUS 2004-08-11; City of Dover Plan Amendments

Dear Mr. Galvin:

Thank you for meeting with State agency planners on September 1, 2004 to discuss the proposed City of Dover plan amendments. State agencies at the meeting discussed two amendments as follows:

1. Annexation and change of zoning for 1.45 acres located on Kenton Road at Fox Hall Drive (Lands of Hutton annexation) from Kent County RS1 to City of Dover CPO to allow the developer to build professional offices on the site.
2. Rezoning of several lots located on Old Leipsic Road from R-8 to C-1A for the purpose of commercial race vendor staging.

This office has received the following comments from State agencies:

**Office of State Planning Coordination – Contact: David Edgell 739-3090**

The projects covered by this plan amendment are both located in Investment Level 1 according to the June 3 version of the 2004 State Strategies for Policies and Spending, which has been approved by the Cabinet Committee for State Planning Issues. Investment Level 1 reflects areas that are already developed in an urban or suburban fashion, where infrastructure is existing or readily available, and where future redevelopment or infill projects are expected and encouraged by State policy.

These two comprehensive plan amendments are relatively small in size, and our office has no objections to the City of Dover pursuing a change in the Plan in order to accommodate them. However, I would like to note that DelDOT has some very legitimate concerns about the rezonings along Old Leipsic Road regarding pedestrian safety and emergency response times during race weekends. You may refer to their more detailed comments below. Our office encourages the City of Dover to carefully consider these concerns when reviewing this particular rezoning request.

If the Planning Commission and Council decide to enact these changes, please contact David Edgell to discuss the proper format for the comprehensive plan amendment. These changes must be prepared in a format that includes text and a map or map series that can be attached or amended into plan document itself. The amendment must also include documentation describing the planning rationale for the changes, illustrating that the public has been notified and involved, and that the City has coordinated with other jurisdictions. Our office will consider certification of the amendments upon receipt and review of the final plan amendment package. This plan amendment will not effect the date of the original plan certification. A full update of The Dover Plan will be due on or before September 22, 2008.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

Hutton Property

- 1) Setting aside the matter of the rezoning, which is a function of the City of Dover, DelDOT supports the annexation because it would reduce the size of the enclave described above.
- 2) Whether this property is developed residentially or for professional offices, DelDOT would require that its access be on Fox Hall Drive. If it is developed for office use, improvements to Fox Hall Drive and to Kenton Road at Fox Hall Drive may be necessary.
- 3) Again whether this property is developed residentially or for professional offices, it is recommended that the City require sidewalks along the property frontage.
- 4) If the rezoning is approved, the developer's engineer should contact the DelDOT project manager for Kent County, Mr. Brad Herb of Johnson, Mirmiran & Thompson, regarding the DelDOT requirements for access. Mr. Herb may be reached at (302) 266-9080. If the rezoning is not approved and the property is to be developed residentially, the developer's engineer should contact the DelDOT Central District Public Works Engineer, Mr. Robert Greybill, in the same regard. Mr. Greybill may be reached at (302) 760-2316.

Old Leipsic Road Properties

- 1) DelDOT is concerned that the proposed rezonings could result in retail vending uses along Old Leipsic Road during race weekends. Presently during race weekends, the volume of pedestrian traffic crossing, traveling and milling about on Leipsic Road impedes the flow of vehicle traffic there and places the pedestrians at significant risk. Despite the reference to “vendor staging” on the PLUS application, DelDOT believes that if these rezonings are approved, there would likely be retail uses on these lands and that this would result in increased pedestrian traffic crossing Leipsic Road, exacerbating the problem just described. It would also likely result in more pedestrians walking along Old Leipsic Road and Plaza Drive. Presently the command center for emergency response personnel is located in a house at the south end of Old Leipsic Road and increased pedestrian traffic there and on Plaza Drive would affect their response times.

It is requested that if the City approves vendor staging, that they do so without retail sales. That would appear to address the applicants’ announced purposes while addressing the DelDOT concerns.

- 2) If the proposed rezoning or a similar action is approved, the property owners should contact the project manager for Kent County, Mr. Brad Herb of Johnson, Mirmiran & Thompson, regarding their requirements for access. Mr. Herb may be reached at (302) 266-9080.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-3091**

DNREC comments are submitted as if the properties were to be developed. The Department does not take a position on the amendment of the Comprehensive Plan or any subsequent rezonings (if necessary), recognizing that that is a decision best left to the local jurisdiction.

**Lands of Hutton**

**Soils**

According to the Kent County soil survey, Sassafras and Othello were mapped in the immediate vicinity of the proposed construction. Sassafras is well-drained upland soil that has few limitations for development. Othello is a poorly-drained wetland associated (**hydric**) soil that has severe limitations for development.

**Wetlands**

According to Statewide Wetland Mapping Project (SWMP) maps, no wetlands were mapped on subject parcels. However, the presence of a hydric soil mapping unit (Othello) on more than 90 percent of subject parcel contradicts the findings of the SWMP. Since soil mapping is generally a more accurate predictor of wetland conditions (especially when previously farmed or cleared) than the SWMP, its use is preferable. **Based on this information, an Army Corps of Engineers (ACOE) approved wetlands delineation is highly recommended before proceeding beyond the initial planning stage.**

Further, it is recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as “prior converted wetlands.” Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person for assessing a parcel’s cropping history is Sally Griffin at the USDA – she can be reached at 678-4182.

### **Drainage**

The proposed project is in the East Dover Hundred Tax Ditch. The Drainage Section does not have any knowledge of existing drainage complaints or concerns associated with the project. The Drainage Section requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

### **Old Leipsic Road**

#### **Soils**

According to the Kent County soil survey, Sassafras, Fallsington, Elkton, and Bayboro were mapped in the immediate vicinity of the proposed construction. Sassafras is well-drained upland soil that has few limitations for development. Fallsington and Elkton are poorly-drained wetland associated (hydric) soils that have severe limitations for development. Bayboro is a very poorly-drained wetland associated (**hydric**) soil that has severe limitations for development.

#### **Wetlands**

According to Statewide Wetland Mapping Project (SWMP) maps, no wetlands were mapped on subject parcel. However, the presence of hydric soil mapping units (Fallsington, Elkton, and Bayboro on more than 50 percent of subject parcel contradicts the findings of the SWMP. Since soil mapping is generally a more accurate predictor of

wetland conditions (especially in areas previously farmed) than the SWMP, its use is preferable. **Therefore, an Army Corps of Engineers (ACOE) approved wetlands delineation is highly recommended before preceding beyond the initial planning stage.**

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### **Drainage**

The proposed project is in the White Oak Tax Ditch. Coordination for future maintenance is essential and the Drainage Section requests the developer and or engineer contact the White Oak Tax Ditch to ensure adequate access to the existing right-of-way is established. The Drainage Section does not have any knowledge of existing drainage complaints or concerns associated with the project. The Drainage Section requests that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

### **Both projects**

### **TMDLs**

Although Total Maximum Daily Loads (TMDLs) as a “pollution runoff mitigation strategy” to reduce nutrient loading have not yet been developed for most of the tributaries or subwatersheds of the Delaware Bay watershed to date, work is continuing on their development. TMDLs for the St. Jones River subwatershed, of which this parcel is part, are scheduled for completion in December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies (BATs) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts associated with development.

## **Water Supply**

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule.

Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-3665.

## **Recreation**

It is recommended that sidewalks be built fronting every residence and stub streets. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities; 2) provide opportunities for neighbors to interact in the community; and 3) facilitate safe, convenient off-road access to neighboring communities, public mass transit stops, schools, stores, work, etc.

## **Underground Storage Tanks**

There are no LUST sites located near the proposed projects. However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

## **Public Service Commission - Contact: David Bonar 739-4247**

PSC verified that the properties are within the certificated area for the City of Dover.

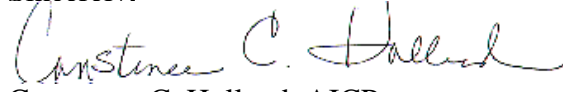
If you have not already done so, Dover will need to notify the Commission of the areas to which it is providing wastewater services.

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

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Thank you for the opportunity to review these projects. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script, reading "Constance C. Holland". The ink is dark and the signature is fluid.

Constance C. Holland, AICP  
Director